THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.27475 of 2005

Dated 23rd December 2005

Between:

T.Sreerama Murthy S/o. Late Ramadasu

…Petitioner

and

Government of A.P.,

Health, Medical and Family Welfare Department,

Rep. by its Secretary, & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 27475 of 2005

O R D E R:

The petitioner states that he has participated in the freedom struggle. On his representation, the Principal of Rangaraya Medical College, Kakinada, the 4th respondent herein, passed order dated 19.5.2000, permitting him to establish a medical shop in the campus of the Medical College, in a space of 11'x16'. The permission was accorded purely on temporary basis, subject to payment of Rs.1,000/- towards rent. Within one month thereafter, the 4th respondent cancelled the permission, through order dated 22.6.2000, on the instructions issued by the District Collector, East Godavari District, the 3rd respondent herein. Petitioner filed W.P.No.11228 of 2000, challenging the order of cancellation. The writ petition was allowed on 16.9.2003, on the ground that the petitioner was not issued any show-cause notice. Thereafter, the 3rd respondent issued a show-cause notice on

20.1.2004. Petitioner states that he submitted his explanation on 11.2.2004. In fact, the petitioner approached this Court once again, by filing W.P.No.26000 of 2005, seeking directions for disposal of the matter, in terms of his representation, and an order was passed on 6.12.2005, directing the 4th respondent to pass appropriate orders.

The 4th respondent passed an order on 19.12.2005, making reference to the show-cause notice, explanation, and the order of the Court, and directing the petitioner to remove the medical shop, within two days from the date of receipt of the order. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that the impugned order does not state any reasons, and it cannot be sustained in law. He further submits that the petitioner was put to irreparable loss, on account of the various steps taken by the respondents, one after the other.

Learned Government Pleader for Medical & Health, on the other hand, submits that the permission accorded to the petitioner was purely on temporary basis, and that the eviction of the petitioner became necessary, on account of two reasons, *viz*. that the site in question is needed for expansion of the college building and that the Government has taken a policy decision to put the leasehold rights, for establishing the medical shops in Government Hospitals and Medical Colleges, to auction.

The permission that was accorded to the petitioner in the year 2000, was purely on temporary basis. Neither any lease was granted, nor permission is referable to any statutory or special provision. Obviously on account of lack of proper experience on legal mattes, the 4th respondent passed orders, one after the other, without complying with the relevant provisions. This Court had set aside the order of cancellation, leaving it open to the 4th respondent to pass orders, after giving opportunity to the petitioner. It was in this context that a show-cause notice was issued on 20.1.2004, and the petitioner had submitted his explanation on 1.2.2004.

It is true that the 4th respondent did not state any reasons, in support of his conclusion, to evict the petitioner. However, as long as the right of the petitioner is not traceable to any statutory provision, this Court cannot direct the continuance of the petitioner for indefinite period, particularly, when the site is required for expansion of the college building. Further, when the Government has taken a policy decision to grant the rights to establish medical shops in the Government Hospitals, through the process of auction, the petitioner cannot be conferred the benefit of unilateral allotment. The amount fetched in the auction is being utilized to improve the facilities in the hospitals.

For the foregoing reasons, the writ petition is disposed of, directing that;

a. it shall be open to the respondents to grant or award the rights of establishing medical shop in the Rangaraya Medical College, Kakinada, or the attached Government Hospital opposite to it, by conducting public auction, and it shall be open to the petitioner to participate in the same.

b. Till the grant of rights in favour of the successful tenderer or bidder is finalized, the petitioner shall be continued in the existing premises.

c. In case, the premises in which the medical shop is being run. is immediately needed for expansion of the college building, the petitioner shall be provided with alternative site, till the steps indicated in clauses (a) and (b) are complied with.

There shall be no order as to costs.

23rd December 2005

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